

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Civ. No. 10-2102 (PAM/JJK)

Petitioner,

v.

ORDER

Mark Arhebamen,

Respondent.

This matter is before the Court on Respondent's Motion for a Stay and Motion to Extend Time to File Objections. On April 22, 2011, Magistrate Judge Jeffrey J. Keyes issued a Report and Recommendation ("R&R") recommending that the Government's Petition to Determine Present Mental Condition of an Imprisoned Person be granted. Respondent filed several pro se objections to the R&R, and his counsel sought additional time in which to file objections. The Court granted the request for an extension, setting May 20, 2011, as the deadline for objections to the R&R.

On May 19, Respondent's counsel filed the Motions now before the Court. The Motion to Stay argues that, because Respondent will soon be transported to the Eastern District of Michigan for resentencing on his underlying criminal conviction, he will no longer be in the custody of the Bureau of Prisons for purposes of the Government's Petition. Counsel further argues that this Court previously granted a stay of proceedings in similar circumstances in another case involving Respondent. The Government opposes the stay, noting that the issues regarding Respondent's mental health and treatment regime must be

addressed regardless of his location, and that, in any event, Respondent will remain in the custody of the Bureau of Prisons in Michigan.

The Court agrees with the Government that there is no reason to further delay the Petition. The circumstances in the previous case are far different from those here. In that case, the Court had yet to hold a hearing on the Petition. Here, Magistrate Judge Keyes held a hearing, at which Respondent appeared and testified. The R&R is complete. The only proceedings remaining in the case are paper proceedings,¹ which can be accomplished with Respondent in Minnesota or in Michigan.

Accordingly, **IT IS HEREBY ORDERED that:**

1. Respondent's Motion to Stay (Docket No. 35) is **DENIED**;
2. Respondent's Motion to Extend Time (Docket No. 36) is **GRANTED**;
3. Respondent shall file objections to the R&R by Monday, June 6, 2011; and
4. The Government may file a response to Respondent's objections by June 20, 2011.

Dated: May 26, 2011

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge

¹ Respondent filed a pro se Motion for New Hearing (Docket No. 33), but, if that Motion is granted, the new hearing can be held when and if Respondent returns to FMC-Rochester.